

Public Law 96-404
96th Congress

An Act

To authorize the Three Affiliated Tribes of the Fort Berthold Reservation to file in the Court of Claims any claims against the United States for damages for delay in payment for lands claimed to be taken in violation of the United States Constitution, and for other purposes.

Oct. 9, 1980

[S. 341]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Notwithstanding sections 2401 and 2501 of title 28, United States Code, and section 12 of the Indian Claims Commission Act of August 13, 1946 (60 Stat. 1052; 25 U.S.C. 70k), and notwithstanding the lapse of time, statutes of limitations, or the defense of res judicata or collateral estoppel, or any other provisions of law, jurisdiction is hereby conferred upon the Court of Claims to hear, determine, and render judgment on any claim filed by the Three Affiliated Tribes of the Fort Berthold Reservation within one year from the date of this Act for the taking under the fifth amendment of the Constitution of the nine million eight hundred and forty-six thousand one hundred eighty-six and ninety-three one-hundredths acres of land defined as the territory of the Three Affiliated Tribes in the Treaty of Fort Laramie of September 17, 1851 (11 Stat. 749), to which the Three Affiliated Tribes of the Fort Berthold Reservation and the United States were parties, being the same land determined by the Court of Claims to have an average value of 50 cents per acre for a total of \$4,923,093.47 in Fort Berthold Indians versus United States (71 Ct. Cl. 308) (1930) (hereinafter "prior case"): *Provided*, That the value of the land fixed at an average of 50 cents per acre in the prior case shall be binding on the parties in any suit brought under this Act.

Fort Berthold
Reservation
Tribes, damage
claims against
U.S.

USC prec. title 1.

SEC. 2. If the Court of Claims determines that the claimant is entitled to just compensation under the fifth amendment, the Court shall enter an award computed on the basis of established judicial precedent: *Provided, however*, That as a measure of just compensation the Court shall compute interest at the rate of 5 per centum per annum. No offsets, including gratuities, subsequent to the terminal date of the accounting in the prior case shall be allowed or deducted from any judgment entered under authority of this Act, except that the United States shall be entitled to an offset, against any judgment entered under authority of this Act, of the sum of money, if any, awarded as a judgment in the prior case.

Award.

Interest.

Offsets.

SEC. 3. The provisions of section 15 of the Act of August 13, 1946 (60 Stat. 1053; 25 U.S.C. 70n) shall be applicable with respect to any claim filed pursuant to this Act in the same manner and to the same extent as if such claim were pending before the Indian Claims Commission except that the functions of the Commission shall be performed by the Court of Claims.

25 USC 70n-1—
70n-7.

SEC. 4. The provisions of the Act of November 4, 1963 (77 Stat. 801; 25 U.S.C. 70n-1-7), shall be applicable with respect to any claim filed pursuant to this Act in the same manner and to the same extent as if such claim were pending before the Indian Claims Commission except that reference to the Commission shall be deemed to be to the Court of Claims.

Approved October 9, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1356 (Comm. on Interior and Insular Affairs).
SENATE REPORT No. 96-833 (Comms. on Indian Affairs and the Judiciary).
CONGRESSIONAL RECORD, Vol. 126 (1980):
July 21, considered and passed Senate.
Sept. 29, considered and passed House.